

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
Appellate Side
WRIT PETITION NO.646 OF 2007

Smt.Vidya K. Phadnis Petitioner
v/s.
Shree Chhatrapati Shivaji
Maharaj Secondary & Higher
Secondary School & ors. Respondents

Mr.P.B.Shah for petitioner.
Mr.Patil for respondent Nos.2, 3 & 4.
Mr.M.N.Bhadrashete for respondent No.9.
Mr.P.M.Patil, AGP for respondent Nos.5 to 8 & 10.

**CORAM : H.L. GOKHALE, ACTING C.J. &
V.M. KANADE, J.**

DATED : 26th February 2007

P.C. :

1. Heard the learned Counsel for the parties.
2. Rule. Rule is returnable forthwith.
Respondents waive service.
3. This Petition is filed by a Head Mistress of a school which is run by respondent No.2-Trust in Taluka Niphad, District Nashik. This Trust has been set up by Karmaveer Kakasaheb Wagh Co-operative Sugar Factory. The said Sugar Factory is in liquidation and respondent No.3 has been appointed as Liquidator by an interim order dated 16th August 2006 passed under Section 102(1)(a) of the Maharashtra Co-operative

Societies Act, 1960. The said school is facing certain problems since then and is finding difficulties in operating its bank account with respondent No.9-Nashik District Central Co-operative Bank.

4. The submission of Mr.Shah, learned Counsel appearing for the petitioner, is that the said Trust and the Sugar Factory are two different entities. The school is run by the Trust which is registered under the Bombay Public Trusts Act, 1950, whereas the Sugar Factory is registered under the Maharashtra Co-operative Societies Act. The Liquidator is appointed on the Sugar Factory. However, by reason of that, he cannot control or dictate terms to the Trust, though it has been founded by the Directors of the Sugar Factory.

5. Mr.Patil appearing for the Liquidator and the Manager of the Sugar Factory, on the other hand, submits that the properties of the Trust are those of the Sugar Factory and, therefore, if the Liquidator is appointed for the Sugar Factory, he will definitely have a say in running of the school. The prayer of the Petition is limited, namely, that the account of the 1st respondent-school should be permitted to be

operated and freezing of the account is illegal.

6. Mr.Shah appearing for the petitioner has drawn our attention to the Resolution dated 31st July 2002 of the Trust which authorizes running of the bank account by two of the following:-

(i) either the Chairman or Vice Chairman of the School Committee; and

(ii) the Head Master / Head Mistress of the school.

7. Mr.Bhadrashete appearing for respondent No.9-Nashik District Central Co-operative Bank states that the bank account is operated as per the aforesaid Resolution of the Trust. If that is the position, then there is no place for the Liquidator in operating of the school account. The bank account will have to be operated in the manner which has been operated all this time. Mr.N.D.Thete happens to be a Chairman and one Mr.C.B. Holkar is the Vice Chairman, whereas the petitioner-Smt.Vidya K. Phadnis is the Head Mistress.

8. In the circumstances, one of the two

members of the School Committee and the Head Mistress will have to be permitted to operate the bank account. Accordingly, we allow this Petition and pass the order that the bank account of the Trust with respondent No.9-Bank will be operated by the aforesaid members of the School Committee. We clarify that the names of Mr.Theite and Mr.Holkar have been mentioned in the aforesaid Resolution since they were office bearers in the year 2002. Whosoever is the person occupying that position and the Head Mistress will operate the bank account.

9. Rule is made absolute in the aforesaid terms.

(ACTING C.J.)

(V.M. KANADE, J.)